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IN THE

Supreme Court of the United States

OCTOBER TERM, 1943

No. 288

SWISS NATIONAL INSURANCE COMPANY, LTD.,
a Corporation of Basle, Switzerland,
Petitioner,

against

LEO T. CROWLEY, as Alien Property Custodian, and
W. A. JULIAN, as Treasurer of the United States,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

PETITIONER'S REPLY BRIEF

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PETITIONER'S REPLY BRIEF

We think it merely necessary to answer in briefest form the statement contained at page 12 of Respondents' Brief in Opposition to our Petition for Certiorari. Respondents there assert that our argument requires the overruling of *United States* v. *Chemical Foundation*, 272 U. S. 1, and the other cases there mentioned. The Government has misconceived the point of our argument, which we shall endeavor to state as succinctly as words permit.

This Court, in the cases referred to, held only that the United States had power to do what it wished with the sequestered property and that it had acquired full title. It could confiscate, or it could temporarily sequester, so

far as governmental power was concerned. What this Court held was that the former owners retained no legally enforceable rights to the property taken from them.

It is illegitimate to assume from this that there was no international law on the subject which the United States was bound to respect. Congress could violate that law and confiscate the money, but the international rule against confiscation was a well settled part of our American public law. Congress had evinced no intention of repudiating this rule and, as a matter of fact, did not repudiate it, but acknowledged, impliedly at least, the international obligation. The power of Congress to ignore an international obligation, whether treaty or customary, is not disputed, but until it does so international law must be held to exist and to be binding; it is still, as Chief Justice Marshall stated, part of our law. It has never been repudiated.

Since the United States was under a duty to return the funds taken over from petitioner in 1918, it follows that petitioner is entitled, in equity and good conscience, to retain the funds restored to it under the Presidential order of 1925, regardless of whether the President acted under a misinterpretation of the applicable law.

This is the nub of our case. Never was it more important than today to know whether international law is to be respected. Many of us thought that our great struggle and war effort were largely on behalf of the observance of that law. This case would thus seem to have its own peculiar importance and dignity.

September 23, 1943.

Respectfully submitted,

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